

THE HON'BLE SRI JUSTICE BILAL NAZKI
WRIT PETITION NO.11991 OF 1996

Date: 12-07-2006

Between:

G.Prabhakar ... Petitioner

And

The Board of Trustees, Visakhapatnam
Port Trust and others

... Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI
WRIT PETITION NO.11991 OF 1996

ORDER:

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Heard learned counsel for the parties.

The writ petition has been filed in the year 1996 and this Court by order dated 17-07-1996 granted an interim order directing respondent Nos.1, 2 and 4 not to evict or dispossess the petitioner from the land in question or otherwise prevent him from operating the telephone booth. As such, the petitioner is holding the property for the last 10 years because of the interim order passed by this Court.

The brief facts, which gave rise to filing of this writ petition, are mentioned in the writ petition. It is submitted by the petitioner that he was allotted a piece of land by the fourth respondent with the consent and permission of other respondents for operating a telephone booth over the said piece of land. This piece of land was allotted by the fourth respondent to the petitioner on 18-11-1991. In 1996, the fourth respondent informed other respondents that the petitioner was exchanging foreign currency from visiting seamen in violation of the terms and conditions of the licence. He was asked to vacate the premises within ten days. On 04-06-1996, the petitioner made a representation denying the allegations and requesting extension of the lease. I have seen the record. There is nothing on the record to show that any lease was granted in favour of the petitioner, in fact the land had been leased to the fourth respondent by the Visakhapatnam Port Trust, who had inducted, with the consent of the Trust, the petitioner as a licensee. One of the letters written by the

Trust on 15-11-1991 to the fourth respondent states:

“With reference to your letter cited, the VPT has no objection to accord permission in favour of M/s.K.R.&Sons (P) Ltd., to allow third person viz., Sri G.Prabhakar, S/o Nagabhushanam for installation of public telephone booth (24 hours) on the North West corner of the leased premises at Port area subject to payment of phased rents for the extent of land occupied by the booth as detailed hereunder:

- 1. 1st year normal rent (single rent);*
- 2. 2nd year double the normal rent;*
- 3. 3rd year triple the normal rent;*
- 4. 4th year four times of the normal rent;*
- 5. 5th year and onwards five times of the normal rent*

Plan showing the actual extent of land required and the date of installation of the public telephone booth may be furnished to this office to take further action pl.”

The only letter, which is sought to be pressed into service as a lease, is dated 18-11-1991. This letter is written by the fourth respondent to the petitioner and it reads as under:

“With reference to your application, we wish to inform you that the Vizag Port Trust has accorded permission for the installation of Public Telephone Booth (24 hours) subject to the payment of rent and furnishing of information as stated by them. A copy of their letter is enclosed herewith for your intimation and necessary action

We request you to immediately inform us the date of installation and land required to enable us to inform the same to Vizag Port Trust.”

Thereafter on 30-05-1996, the petitioner was informed by the fourth respondent that his own lease with the Port Trust had expired on 31-

03-1995, therefore, he was required to vacate the premises within ten days from the date of receipt of the letter. The fourth respondent had inducted the present petitioner as a licensee in part of the premises, which was leased out to him by the Port Trust. The fourth respondent's lease expired on 31-03-1995. Therefore, there was no reason for the petitioner to continue with the possession of the property beyond 01-04-1995. Besides, there were serious charges against the petitioner that under the guise of a Public telephone Booth, he was using the premises for illegal purposes. This Court would not like to go into such allegations on the ground that the fourth respondent had lost any right to holdover the property after 31-03-1995 and as such the petitioner had no right to continue with the possession of the premises. Since the petitioner has already enjoyed the possession of the property for ten years because of the interim orders of this Court, therefore, no further time is granted to him to vacate the premises. Respondents shall be at liberty to remove him as early as possible. They shall also be at liberty to use minimum force required, if any resistance is offered.

The writ petition is accordingly dismissed with costs of Rs.5,000/- (Rupees five thousand only).

(Bilal Nazki,J)

Dated 12th July, 2006

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